



Federal Communications Commission
Washington, D.C. 20554

July 10, 2019

Ms. Emma Best
MuckRock News
DEPT MR 74296
411A Highland Avenue
Somerville, MA 02144-2516

Re: FOIA Control No. 2019-000490

Dear Ms. Best:

This letter responds to your Freedom of Information Act (FOIA) request for “[c]opies of records mentioning or describing audits, reviews, investigations or reports regarding the agency's cyber security, including audits or investigations regarding the state of the agency's cyber security regarding potential attacks as well as audits and investigations conducted in the wake of a suspected or actual cyber attack, hacking incident or breach” from January 1, 1996 to June 30, 2016.

FCC OIG has identified 50 documents. All of them are accessible on the FCC website.

All 49 audit documents can be found at: <https://www.fcc.gov/inspector-general/reports/general/audit-inspection-and-evaluation-reports-issued-office-inspector#block-menu-block-4>

These include:

05/09/16 FY15 Federal Communications Commission's (FCC) Fiscal Year 2015 Federal Information Security Management Act (FISMA) Report

11/21/14 Transmittal Memorandum for Report on the Federal Communications Commission's Fiscal Year 2014 Federal Information Security Management Act (FISMA) Evaluation Released

04/10/14 Transmittal Memorandum for Federal Communications Commission (FCC) Physical Security Assessment Report Released

03/12/14 Transmittal Memorandum for Audit of FCC Compliance with OMB Circular No. A-130, Revised

01/08/14 Transmittal Memorandum for Report on the Federal Communications Commission's Fiscal Year 2013 Federal Information Security Management Act (FISMA) Evaluation Released

06/14/13 Transmittal Memorandum for the Federal Communications Commission (FCC) Website Security Assessment Released

12/31/12 Transmittal Memorandum for Report on the Federal Communications Commission's Fiscal Year 2012 Federal Information Security Management Act (FISMA) Evaluation Released

12/14/11 Transmittal Memorandum for Report on the Federal Communications Commission's Fiscal Year 2011 Federal Information Security Management Act (FISMA) Evaluation Released

03/29/11 Transmittal Memorandum for Report on the Federal Communications Commission's Fiscal Year 2010 Federal Information Security Management Act (FISMA) Evaluation Released

12/2/05 Report on the FY 2004 Audit of Network Infrastructure Controls

6/3/05 Report on the Audit of Wireless Network Controls

5/27/05 Report on the Audit of the Integrated Spectrum Auctions System (ISAS)

10/28/04 Physical Security Review of Gettysburg Site

10/22/04 Report on Follow Up to the Audit of Web Presence Security

10/15/04 Inspector General Statement on the Federal Communications Commission's Fiscal Year 2004 Major Management Challenges

10/6/04 FY 2004 Federal Information Security Management Act (FISMA) Independent Evaluation

9/20/04 Report on Fiscal Year 2004 Federal Information Security Management Act (FISMA) Evaluation and Risk Assessment

2/6/04 Report on Fiscal Year 2003 Federal Information Security Management Act (FISMA) Evaluation and Risk Assessment

11/24/03 Report on Audit of the Revenue Accounting and Management Information System (RAMIS)

9/29/03 Survey of Systems Development Life Cycle (SDLC) Implementation

9/22/03 FY 2003 Federal Information Security Management Act (FISMA) Independent Evaluation

9/12/03 Report on Audit of Auctions IT Capital Investment Practices

1/10/03 Report on the Follow-up Audit of Computer Controls at the FCC Consumer Center

1/6/03 Report on GISRA Evaluation - Findings and Recommendations

9/16/02 FY 2002 GISRA Evaluation

11/29/01 Report on Government Information Security Reform Act Evaluation - Findings and Recommendations

9/5/01 Evaluation of the Commission's Information Security Program in accordance with the Government Information Security Reform Act (GISRA)

6/13/01 Audit of Web Presence Security

4/10/01 Special Review of Internet Privacy and Web Cookies

8/16/99 Audit of the Federal Communications Commission Year 2000 Program

2/9/98 Special Review of Auction Application Security [Transmittal Memorandum]

3/5/97 Report on the Audit of Network Remote Dial-In Security

3/28/96 Follow-Up Audit of Physical Security of the Local Area Network

There are an additional 16 audit documents that are financial statement audits. Their focus is not cyber security, but it is mentioned and broadly discussed in the opinion report. Therefore, to be as thorough as possible, they are listed below.

- 11/14/14 Fiscal Year 2014 Federal Communications Commission's Financial Statements Audit Transmittal Letter and Report
- 12/13/13 Audit of the Federal Communications Commission's Financial Statements for Fiscal Year 2013
- 11/14/12 Audit of the Federal Communications Commission's Financial Statements for Fiscal Year 2012
- 11/14/11 Audit of the Federal Communications Commission's Financial Statements for Fiscal Year 2011
- 11/12/10 Audit of the Federal Communications Commission's Financial Statements for Fiscal Year 2010
- 11/13/09 Audit of the Federal Communications Commission Financial Statements for Fiscal Year 2009
- 11/13/08 Report on the Federal Communications Commission Fiscal Year 2008 and 2007 Financial Statements
- 11/15/07 Report on the Federal Communications Commission Fiscal Year 2007 and 2006 Financial Statements
- 11/15/06 Report on the Federal Communications Commission Fiscal Year 2006 Financial Statements
- 11/15/05 Report on the Federal Communications Commission Fiscal Year 2005 Financial Statements
- 11/15/04 Report on the Federal Communications Commission Fiscal Year 2004 Financial Statements
- 12/19/03 Report on the Federal Communications Commission Fiscal Year 2003 Financial Statements
- 1/31/03 Report on the Federal Communications Commission Fiscal Year 2002 Financial Statements
- 4/30/02 Report on the Federal Communications Commission Fiscal Year 2001 Financial Statement
- 6/27/01 Report on the Federal Communications Commission Fiscal Year 2000 Financial Statements
- 7/7/00 Report on the Federal Communications Commission Fiscal Year 1999 Financial Statement

The final responsive document is the Report of Investigation (ROI) for case number OIG-I-17-0011 titled "Alleged Multiple Distributed Denial-Of-Service (DDoS) Attacks involving the FCC's Electronic Comment Filing System (ECFS)" or "ECFS DDoS." It includes a cover letter addressed to the Inspector General from the Assistant Inspector General-Investigations and a written response from Chairman Pai. This document is available on the FCC website at <https://www.fcc.gov/sites/default/files/fcc-oig-roi-ecfs-ddos-08072018.pdf>. This document contains marked redactions pursuant to FOIA Exemptions 6, 7(C), and 7(E).

FOIA Exemption 6 protects “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.”¹ Balancing the public’s right to disclosure against the individual’s right to privacy, we have determined release of this information would constitute a clearly unwarranted invasion of personal privacy. The redacted information includes the names and contact information of individuals. We have determined it is reasonably foreseeable disclosure would harm the privacy interest of the persons mentioned in these records, which Exemption 6 is intended to protect.

FOIA Exemption 7(C) protects “records or information compiled for law enforcement purposes [the production of which] could reasonably be expected to constitute an unwarranted invasion of personal privacy.”² Balancing the public’s right to disclosure against the individual’s right to privacy, we have determined release of this information would constitute an unwarranted invasion of personal privacy. The redacted information includes the names of individuals who were/are employed at this agency. We have determined it is reasonably foreseeable disclosure would harm the Commission or the Federal government’s law enforcement activities, which Exemption 7 is intended to protect

FOIA Exemption 7(E) protects “records or information compiled for law enforcement purposes [the production of which] would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk a circumvention of the law.”³ Information redacted under this Exemption concerns specific techniques and procedures for law enforcement investigations and prosecutions that, if made public, may allow targets to avoid prosecution in future investigations. We have determined it is reasonably foreseeable that disclosure would harm the Commission or the Federal government’s law enforcement activities, which Exemption 7(E) is intended to protect.

The FOIA requires that “any reasonably segregable portion of a record” must be released after appropriate application of the Act’s exemptions.⁴ However, when nonexempt information is “inextricably intertwined” with exempt information, reasonable segregation is not possible.⁵ The redactions and/or withholdings made are consistent with our responsibility to determine if any segregable portions can be released. To the extent non-exempt material is not released, it is inextricably intertwined with exempt material.

We also reviewed the responsive document to determine if discretionary release is appropriate.⁶ The materials protected from disclosure under Exemption 6 are not appropriate for discretionary release in light of the personal privacy interests involved. The materials protected from disclosure under Exemption 7 are not appropriate for discretionary release in light of the law enforcement sensitivities involved.

We are required by both the FOIA and the Commission’s own rules to charge requesters certain fees associated with the costs of searching for, reviewing, and duplicating the sought after

¹ 5 U.S.C. § 552(b)(6).

² 5 U.S.C. § 552(b)(7)(C).

³ 5 U.S.C. § 552(b)(7)(E).

⁴ 5 U.S.C. § 552(b) (sentence immediately following exemptions).

⁵ *Mead Data Cent. Inc. v. Dep’t of the Air Force*, 566 F.2d 242, 260 (D.C. Cir. 1977).

⁶ See President’s Memorandum for the Heads of Executive Departments and Agencies, Freedom of Information Act, 74 Fed. Reg. 4683 (2009).

information.⁷ To calculate the appropriate fee, requesters are classified as: (1) commercial use requesters; (2) educational requesters, non-commercial scientific organizations, or representatives of the news media; or (3) all other requesters.⁸

Pursuant to section 0.466(a)(5)-(7) of the Commission's rules, you have been classified as category (2), "educational requesters, non-commercial scientific organizations, or representatives of the news media." As an "educational requester, non-commercial scientific organization, or representative of the news media," the Commission assesses charges to recover the cost of reproducing the records requested, excluding the cost of reproducing the first 100 pages. The production in response to your request did not involve more than 100 pages of duplication. Therefore, you will not be charged any fees.

You may seek review by filing an application for review with the Office of General Counsel. An application for review must be *received* by the Commission within 90 calendar days of the date of this letter.⁹ You may file an application for review by mailing the application to Federal Communications Commission, Office of General Counsel, 445 12th St SW, Washington, DC 20554, or you may file your application for review electronically by e-mailing it to FOIA-Appeal@fcc.gov. Please caption the envelope (or subject line, if via e-mail) and the application itself as "Review of Freedom of Information Action."

If you would like to discuss this response before filing an application for review to attempt to resolve your dispute without going through the appeals process, you may contact the Commission's FOIA Public Liaison for assistance at:

FOIA Public Liaison
Federal Communications Commission, Office of the Managing Director, Performance Evaluation and Records Management
445 12th St SW, Washington, DC 20554
202-418-0440
FOIA-Public-Liaison@fcc.gov

If you are unable to resolve your FOIA dispute through the Commission's FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road—OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
ogis.archives.gov

⁷ See 5 U.S.C. § 552(a)(4)(A), 47 C.F.R. § 0.470.

⁸ 47 C.F.R. § 0.470.

⁹ 47 C.F.R. §§ 0.461(j), 1.115; 47 C.F.R. § 1.7 (documents are considered filed with the Commission upon their receipt at the location designated by the Commission).

Sincerely,



Sharon R. Diskin
Assistant Inspector General-
Investigations

Enclosure
cc: FCC FOIA Office